



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/168042

PRELIMINARY RECITALS

Pursuant to a petition filed August 07, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on October 08, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly modified the Petitioner's request for personal care (PCW) services.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Marcie Oakes

Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County. Petitioner is 66 years old. Her son lives with her some of the time.

2. Petitioner's diagnoses include cerebrovascular accident (CVA), malaise and fatigue, diabetes. Functional limitations include right side weakness, endurance, ambulation and dyspnea with minimal exertion. She uses a cane, wheelchair or scooter. She has vision impairment in the right eye. She has chronic pain and abnormal gait.
3. On May 22, 2015, the Petitioner's provider, [REDACTED], completed a Personal Care Screening Tool. The assessor determined the Petitioner has the following needs:
 - Bathing – Level D – Needs assistance in/out of tub due to right side affected by CVA. Needs assistance to wash difficult areas and lower extremities due to flaccid right hand.
 - Dressing – Level D (upper) and Level E (lower) – Needs assistance with dressing due to right arm/hand weakness. Problems with buttons and zippers, socks and shoes.
 - Grooming – Level E – Needs assistance with hair care and grooming tasks due to right side weakness and flaccid right hand.
 - Eating – Level A – feeds self. Requires assistance with meal preparation.
 - Mobility – Level D – Gait unsteady. Requires assistance moving from one place to another. Ambulates short periods due to CVA. High fall risk.
 - Toileting – Level D – 3x/day – Requires assistance with incontinent episodes and personal hygiene, toilet transfers, clothing adjustment, pericare due to right side weakness and flaccid right hand.
 - Transfers – Level D – Requires assistance due to unsteady gait and poor balance related to right side weakness.
 - Medication Assistance – Level B – needs reminders

The assessor allocated 26.25 hours/week for PCW services in the PCST.
4. On June 11, 2015, the Petitioner's provider, [REDACTED], submitted a PA request for 28 hours/week of PCW services for the Petitioner.
5. On August 4, 2015, the agency issued a notice to the Petitioner that it approved 25 hours/week of PCW services as follows:
 - Bathing – 210 minutes/week
 - Dressing – 140 minutes/week
 - Grooming – 210 minutes/week
 - Eating – 0
 - Mobility – 140 minutes/week
 - Toileting – 210 minutes/week
 - Transfers – 210 minutes/week
 - Medication assistance – 0
 - Services incidental to tasks – 373.33 minutes/week
 - Total – 1493.33 minutes/week (25 hours)
6. On August 7, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

Personal care services are “medically oriented activities related to assisting a recipient with activities of daily living necessary to maintain the recipient in his or her place of residence in the community.” Wis. Admin. Code §DHS 107.112(1)(a). Covered services include the following:

1. Assistance with bathing;
2. Assistance with getting in and out of bed;
3. Teeth, mouth, denture and hair care;
4. Assistance with mobility and ambulation including use of walker, cane or crutches;
5. Changing the recipient's bed and laundering the bed linens and the recipient's personal clothing;
6. Skin care excluding wound care;
7. Care of eyeglasses and hearing aids;
8. Assistance with dressing and undressing;
9. Toileting, including use and care of bedpan, urinal, commode or toilet;
10. Light cleaning in essential areas of the home used during personal care service activities;
11. Meal preparation, food purchasing and meal serving;
12. Simple transfers including bed to chair or wheelchair and reverse; and
13. Accompanying the recipient to obtain medical diagnosis and treatment.

Wis. Admin. Code, §DHS 107.112(b).

The Petitioner testified at the hearing. Her testimony was consistent with the assessment of her needs in the PCST with the exception of transfers. For bathing, she requires assistance in/out of tub/shower and assistance with washing. For dressing she requires assistance with upper and lower dressing due to right side weakness. She requires assistance with grooming tasks that include nail care and hair due to right hand/arm weakness. She uses a wheelchair or cane for mobility but also requires some physical assistance. She is able to eat on her own but requires assistance with cutting up food and meal preparation due to right hand weakness. She requires some assistance with transfers though she testified that she generally is able to transfer from bed to chair independently. She needs some assistance with getting on/off toilet and with clothing adjustment but stated that she can generally clean herself. She stated that she is able to take medications on her own and does not require reminders. She testified that some tasks take longer because she becomes short of breath with minimal exertion.

The agency properly noted that the bathing task includes one episode of dressing. The agency properly determined that the Petitioner does not require assistance with eating based on the PCST. For the remaining tasks, I conclude the agency allowed a reasonable amount of time based on the evidence. The Petitioner's provider gave no reason for why it requested more hours on the PA than what was calculated on the PCST.

Based on the evidence, I conclude the agency properly modified the PA request to 25 hours/week.

CONCLUSIONS OF LAW

The agency properly modified the PA request.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

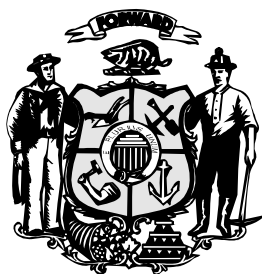
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 16th day of November, 2015

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 16, 2015.

Division of Health Care Access and Accountability